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In re Application of
WINKENS, Frank et al.
Application No.: 10/577,280
PCT No.: PCT/EP00/10164
Int. Filing Date: 16 October 2000
Priority Date: 15 October 1999
Attorney Docket No.: MSA266R1
For: CAPACITANCE SENSOR FOR
DETECTING THE FILL LEVEL OF A
MEDIUM IN A CONTAINER

DECISION ON
PETITION
UNDER 37 CFR 1.137(b)

This decision is in response to applicants' petition under 37 CFR 1.137(b) filed in the United States Patent and Trademark Office on 25 April 2006.

BACKGROUND

On 06 September 2006, the Office mailed Decision On Petition Under 37 CFR 1.137(b), dismissing applicants' petition without prejudice.

On 19 September 2006, applicants filed this renewed petition accompanied by a statement under 37 CFR 1.69.

DISCUSSION

A petition to revive an abandoned application under 37 CFR 1.137(b) must be filed without intentional delay from the time the application became abandoned and/or applicant first became aware of the abandoned status of the application. A petition under 37 CFR 1.137(b) must be accompanied by (1) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, (2) a proposed response, (3) the petition fee required by law (37 CFR 1.17(m)), and (4) a terminal disclaimer and fee (if the international application was filed prior to June 8, 1995).

Items (2), (3) and (4) were previously satisfied.

Item (1) has now been satisfied. Applicants state "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional."

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to

comments 64 and 109)(applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

Applicants previously supplied a declaration of the inventors in a language other than English, that was not on an approved USPTO form and was not accompanied by a 37 CFR 1.69 statement. Applicants have now provided a satisfactory statement under 37 CFR 1.69.

The fee for filing the search fee, examination fee or oath or declaration later than 30 months from the priority date and the processing fee for furnishing the English translation later than 30 months from the priority date will be charged to deposit account no. 11-0224, as authorized.

CONCLUSION

For the above reasons, the petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being forwarded to the National Phase Processing Branch of the Division of PCT Operations for further action consistent with this decision. The application has a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of **25 April 2006**.



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